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SUBJECT: OBJECTION! SCHOLARS, JOURNALISTS CRITICIZE NEW
COURT SPOKESPERSON SYSTEM

REF: 05 BEIJING 17105

Classified By: Political Section Internal Unit Chief Susan A. Thornton.
Reasons 1.4 (b/d).

Summary

¶1. (C) New rules imposing stricter controls on dissemination of information about court cases has touched off sharp debate in Chinese legal circles and among journalists. The Supreme People's court has introduced a new system of court spokespersons who will be solely responsible for releasing news to the press about cases. Judges or other court officials who fall afoul of the restrictions will be subject to punishment. The spokespersons, operating in close cooperation with Propaganda authorities, will come from the courts' General Offices and will have no formal legal or media training. The Government launched the initiative in part as an effort to safeguard social stability by keeping a close hold on details related to controversial cases that could incite unrest, our contacts said. At the same time, journalists told us they worry that the path to gathering useful information for reporting about legal issues just got more difficult, risking a slowdown in judicial openness. End Summary.

A New System for Legal News

¶2. (C) The Xinhua News Agency reported on September 12 that a new system of court spokespersons would henceforth be the only lawful mechanism for disseminating information about legal cases in China. The report said that according to the Supreme People's Court, officials who break the rules and leak information to the press would be subject to disciplinary action. Contacts were unable to specify enforcement procedures or the kinds of punishments that might be meted out. According to Xinhua and foreign media reports, the new rules ban the release of news related to national secrets, business secrets and personal information. In addition, any case evaluations by official trial committees can not be made public, nor can documents that pass between upper- and lower-level courts. Finally, the presidents of courts have full discretion to forbid disclosure of any material.

Mouthpieces in Training

¶3. (C) In September, the SPC and the Propaganda Department trained 35 new court spokespersons, our media and legal contacts said. Most spokesperson

positions will be filled by high-ranking people already in court offices, said Li Xuan, Vice Dean of the Law School of the Central University of Finance and Economics who also serves as the Secretary-General of the Human Rights Committee of the All-China Lawyers' Association. He specified that the SPC itself now has two spokespersons. One is the Director General of the SPC General Office; the other is the Deputy Director General. The same setup will exist in provincial courts, whose spokespersons will come from their General Offices as well. Central and provincial Propaganda Departments will provide support staff to courts' media affairs offices, drafting statements and scripting responses to possible press questions. Each court now has an adjudication committee that makes decisions about what kind of information to publicize when important cases arise. The President of the court, to whom spokespersons report, will have ultimate say, Li related.

Scholars Critical

14. (C) That the spokespersons will have no media or legal background is causing consternation among legal scholars, Li acknowledged. While some observers contend that insulating judges from media pressure will enhance the integrity of judicial decisionmaking, Li said, others complain that the spokespersons will have very little freedom to share useful information about cases of interest. Against this backdrop, Li criticized the granting of authority to court officials to decide what kind of information should and should not be publicized, saying it has no basis

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in law. Li concluded that if the system is being introduced to limit public access to information, then it constitutes a step backward for legal transparency. Under the new rules, the media has lost a channel to get the inside scoop about the system's flaws. As such, it will be harder press for further reforms, Li said.

A Reporting Hurdle

15. (C) Journalists who cover legal issues are unhappy about the new rules, said Zhang Shensi (protect), a reporter for the state-run Legal Daily newspaper. The Legal Daily ran a straightforward article describing the spokesperson system on September 13. Zhang said that given her paper's status as a Party mouthpiece, finding fault in print with Supreme People's Court initiatives such as this one would earn unwelcome attention from the Propaganda Department. Nonetheless, she related that reporters she has spoken with at the Legal Daily and elsewhere are downbeat about the restrictions. They expect the spokespersons will likely only speak to them in the context of press conferences. There will probably be little leeway to pick up the phone and ask them to discuss individual cases. "The path to gathering useful information for reporting about legal issues just got more difficult," Zhang said.

Judges Split

16. (C) Judges are divided about the new rules, Zhang remarked. Some on the bench are frustrated because they have good relationships with journalists who cover the legal beat. Both groups benefit from discussion of hot legal issues, Zhang argued. If the new rules are strictly enforced, these relationships will end. But other judges welcome the initiative

because they are inundated with press inquiries, which are increasing in the face of rising public interest in legal cases. In addition, some judges see the rules as creating a welcome buffer zone that will allow them to make judgments without the fear that publicity about case details will cause a public outcry.

It's About Social Stability

¶7. (C) Vice Dean Li separately made a similar point, surmising that stability concerns are at the heart of the new spokesperson system. Several controversial cases have galvanized popular interest and resulted in protests or unrest, he said. For example, in 2005, media stories about a migrant worker convicted of murder and sentenced to death in Ningxia Province in 2005 riled migrant communities around the country who felt the verdict was overly harsh (reftel). (Note: The Propaganda Department ultimately banned reporting on the case. End note.) Heated appeals in the press and from netizens on other cases in the past have forced the SPC to make hasty decisions that were too sensitive for provincial courts to handle, Li said.

¶8. (C) For the working press, however, such arguments ring hollow, said Zhou Qing'an (protect), a free lance writer and regular contributor to The Beijing News. The problem is not media influence on the court system, he contended, arguing that the press has no authority to adjudicate cases or impose legal decisions. Imperfections in the way the media covers legal issues are less important to address than flaws in the legal system itself, Zhou maintained. Insulating judges from the pressure of media attention is a laudable goal, he allowed. At the same time, the new system "needs to give the press an avenue for getting real information," Zhou concluded. "That is not going to happen with spokespersons system that has been set up basically to keep information from the press."

SEDNEY